

Attorney Docket No. AVERP03204USA

Remarks

This response addresses the non-final Office Action mailed on April 7, 2005. The various parts of the Office Action are discussed below under similar headings.

Response to Amendment

There appears to be a typographical error in paragraph 1 of the Office Action. In particular, the Examiner states that "claims 12-23 have been cancelled." It is Applicant's understanding that claims 17-23 have previously been cancelled, not claims 12-23. Accordingly, claims 1-16 and 24-28 are currently pending in the application.

Claim Rejections - 35 U.S.C. § 103

The Examiner rejected claims 1-4, 8-16 and 24-26 under 35 U.S.C. §103(a) as being unpatentable over Will et al. (U.S. Patent No. 5,766,795) in view of Weiss et al. (U.S. Patent No. 5,830,596). In addition, the Examiner rejected claims 5-7, 27 and 28 under 35 U.S.C. §103(a) over Will and Weiss and further in view of Abe et al. (U.S. Patent No. 5,725,966).

Applicant respectfully traverses the Examiner's rejections. Independent claim 1 is directed to a multilayer label for a battery. Claim 1 recites:

1. A multilayer label for a battery, comprising:
 - a transparent, shrinkable outer film forming the outermost layer of the label;
 - a transparent, shrinkable carrier film having a first transparent adhesive layer on one side confronting the outer layer and bonding the carrier layer to the outer layer and an outwardly visible indicia layer on the other side; and
 - a second transparent adhesive layer adjacent the indicia layer for bonding the label to the battery.

None of the references of record have been found to disclose or fairly suggest the claimed structure recited by independent claim 1. In particular, neither Will nor Weiss have been found to disclose a battery label having two transparent, shrinkable

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films (one being an outer film and one being a carrier film), wherein the carrier film has a first transparent adhesive layer on one side confronting the outer layer and bonding the carrier layer to the outer layer and an outwardly visible indicia layer on the other side; and a second transparent adhesive layer adjacent the indicia layer for bonding the label to the battery."

In the Office Action, the Examiner relied on Will as the base reference for the obviousness rejections under 35 U.S.C. §103(a). According to the Examiner, Will discloses a multi-layer label for a battery comprising a transparent shrinkable outer film ...forming the outermost layer of the label (figure 5), a first adhesive layer, a transparent shrinkable carrier film..., an outwardly visible indicia layer...and a second adhesive...The transparent shrinkable carrier film having the first adhesive layer on one side confronting the outer layer and bonding the carrier layer to the outer layer (figure 5).

Applicant respectfully submits that the combination Will and Weiss has not been found to disclose or fairly suggest the invention claimed by independent claim 1. In particular, Will has been found to disclose a transparent foil layer 14 as the outermost layer. Will has also been found to disclose a carrier layer 8 "of plastics material" (Col. 3, lines 18-22). But between the outermost layer 14 and the carrier layer 8, Will has been found to disclose the following intermediary layers: (from outermost layer to innermost layer) a laminated adhesive layer 12, an imprint 10, a transparent plastic material foil layer 34, a laminated adhesive layer 36, a vapor deposited layer 32, and a primer layer 30.

Instead of having all of the intermediary layers disclosed by Will, independent claim 1 claims that the carrier film has a first transparent adhesive layer on one side confronting the outer layer and bonding the carrier layer to the outer layer and an outwardly visible indicia layer on the other side and a second transparent adhesive layer adjacent the indicia layer for bonding the label to the battery. This claimed structure is not disclosed nor fairly suggested by Will alone or in combination with any of the other references cited.

Applicant respectfully submits that claim 1 is patentable over Will either alone or in combination with Weiss. Likewise, it is respectfully submitted that claims 2-16, which

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are dependent from claim 1, distinguish patentably over the references of record. Accordingly, the rejection should be withdrawn.

Like independent claim 1, independent claim 24 recites two transparent, shrinkable films (one being the outer film and one being the carrier film) and the carrier film having a first transparent adhesive layer on one side confronting the outer layer and bonding the carrier layer to the outer layer and an outwardly visible indicia layer, a layer of thermochromic material, a layer of electrically conductive material and a second adhesive layer on the other side; with the layer of thermochromic material and the layer of conductive material cooperatively acting as a battery power indicator; and a release liner confronting the second adhesive layer.

In forming the rejection of claim 24, the Examiner relied upon the combination of Will and Weiss as applied to claims 1, 10, 11, and 16.

Applicant respectfully submits that the combination of Will, Weiss and Abe has not been found to disclose or fairly suggest the invention claimed by independent claim 24. In particular, the combination of Will, Weiss and Abe has not been found to disclose a battery label having two transparent, shrinkable films (one being an outer film and one being a carrier film), wherein the carrier film has a first transparent adhesive layer on one side confronting the outer layer and bonding the carrier layer to the outer layer and an outwardly visible indicia layer, a layer of thermochromic material, a layer of electrically conductive material and a second adhesive layer on the other side; with the layer of thermochromic material and the layer of conductive material cooperatively acting as a battery power indicator; and a release liner confronting the second adhesive layer.

Instead of having all of the intermediary layers disclosed by Will (discussed above), claim 24 claims that the carrier film has a first transparent adhesive layer on one side confronting the outer layer and bonding the carrier layer to the outer layer and an outwardly visible indicia layer, a layer of thermochromic material, a layer of electrically conductive material and a second adhesive layer on the other side; with the layer of thermochromic material and the layer of conductive material cooperatively acting as a battery power indicator; and a release liner confronting the second adhesive

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layer. This claimed structure is not disclosed nor fairly suggested by Will alone or in combination with any of the other references cited.

Applicant respectfully submits that claim 24 is patentable over the combination of Will, Weiss and/or Abe. Likewise, it is respectively submitted that claims 25-28, which are dependent from claim 24, distinguish patentably over the references of record. Accordingly, the rejection should be withdrawn.

Conclusion

In view of the foregoing, this application is now in condition for allowance and an early action to that effect is earnestly solicited.

Respectfully submitted,

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CERTIFICATE OF FACSIMILE TRANSMITTAL UNDER 37 C.F.R. 1.8

I hereby certify that this paper (along with any documents referred to as being attached or enclosed) is being facsimile transmitted to the U.S. Patent and Trademark Office (703-872-9306) on the date shown below.

Date: 07-06-05

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